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NOTICE OF ALLOWANCE AND FEE(S) DUE

54205 7590 02/17/2010

CHADBOURNE & PARKE LLP
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

EXAMINER

VEZERIS, JAMES A

ART UNIT

PAPER NUMBER

3693

DATE MAILED: 02/17/2010

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/766,315

01/27/2004

Emerson P. Jones

17209-342

1208

TITLE OF INVENTION: METHOD AND APPARATUS FOR CONDUCTING A TRANSACTION

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$300	\$0	\$1810	05/17/2010

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PART B - FEE(S) TRANSMITTAL

**Complete and send this form, together with applicable fee(s), to: Mail Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
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INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

54205 7590 02/17/2010

CHADBOURNE & PARKE LLP
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/766,315 01/27/2004 Emerson P. Jones 17209-342 1208

TITLE OF INVENTION: METHOD AND APPARATUS FOR CONDUCTING A TRANSACTION

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
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nonprovisional NO \$1510 \$300 \$0 \$1810 05/17/2010

EXAMINER	ART UNIT	CLASS-SUBCLASS
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VEZERIS, JAMES A 3693 705-037000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1 _____
- (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 _____
- 3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) : ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee
- ☐ Publication Fee (No small entity discount permitted)
- ☐ Advance Order - # of Copies _____

4b. Payment of Fee(s); (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____

Date _____

Typed or printed name _____

Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,315	01/27/2004	Emerson P. Jones	17209-342	1208
54205	7590	02/17/2010	EXAMINER	
CHADBOURNE & PARKE LLP 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			VEZERIS, JAMES A	
			ART UNIT	PAPER NUMBER
			3693	
DATE MAILED: 02/17/2010				

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 1025 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 1025 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

Notice of Allowability	Application No.	Applicant(s)	
	10/766,315	JONES ET AL.	
	Examiner	Art Unit	
	JAMES A. VEZERIS	3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to a response to a restriction dated 9/28/2009.
2. ☒ The allowed claim(s) is/are 7-16,21-29 and 31.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| <ol style="list-style-type: none"> 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | <ol style="list-style-type: none"> 5. <input type="checkbox"/> Notice of Informal Patent Application 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance 9. <input type="checkbox"/> Other _____. |
|--|---|

/JAMES A VEZERIS/
Examiner, Art Unit 3693

/James A. Kramer/
Supervisory Patent Examiner, Art Unit 3693

Detailed Action

The following communication is in response to a telephone interview held on 1/15/2010, with Dan Sheridan.

Status of Claims

Applicant's election with traverse of group II in the reply filed on 9/28/2009 is acknowledged. The traversal is on the ground(s) that all of the claims are from class 705, subclass 37. This is not found persuasive because while all the claims are from the same subclass different search strategies would be required.

The requirement is still deemed proper and is therefore made FINAL.

Claims 9-14 are original. Claims 7, 15, and 16 are previously presented. Claim 21 is currently amended. Claims 22-31 are new. Claims 1-6 and 17-20 are cancelled. Claims 7-16 and 21-31 are currently pending.

Allowable Subject Matter

Claims 7-16, 21-29, and 31 are allowed, subject to an examiner's amendment described bellow.

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Art Unit: 3693

Authorization for this examiner's amendment was given in a telephone interview with Dan Sheridan on 1/15/2010.

THE APPLICATION HAS BEEN AMENDED AS DETAILED IN FOLLOWING PAGES:

Claims 1-6.

(cancelled)

Claim 7.

A ~~processor implemented~~ computer implemented method for remarketing a mandatory unit:

an initial capped remarketing of a note portion of said mandatory unit by a processor, said initial remarketing initiated prior to a settlement date of a forward contract portion of said mandatory unit, said initial remarketing subject to a reset rate cap;

a subsequent capped remarketing, by said processor, if said initial remarketing is unsuccessful;

a final remarketing of said note portion of said mandatory unit, by said processor, if both said initial capped remarketing and said subsequent capped remarketing are unsuccessful, said final remarketing initiated prior to said settlement date and not subject to a reset rate cap;

structuring, by said processor, the note as a combination of capped and uncapped remarketings, so it is treated as Tier i capital, for purposes of regulations applicable to financial institutions; and

issuing, by said processor, said forward contract portion.

Art Unit: 3693

Claims 17-20.

(cancelled)

Claim 30.

(Cancelled)

Claim 31.

A ~~processor-readable~~ computer readable medium storing a plurality of processing instructions, executable by the computer to perform the steps of:~~comprising~~
~~issuable instructions by a processor to:~~

executing ~~execute~~ an initial capped remarketing of a note portion of said mandatory unit by a processor, said initial remarketing initiated prior to a settlement date of a forward contract portion of said mandatory unit, said initial remarketing subject to a reset rate cap;

executing ~~execute~~ a subsequent capped remarketing if said initial remarketing is unsuccessful;

executing ~~execute~~ a final remarketing of said note portion of said mandatory unit, if both said initial capped remarketing and said subsequent capped remarketing are unsuccessful, said final remarketing initiated prior to said settlement date and not subject to a reset rate cap;

structuring ~~structure~~ the note as a combination of capped and uncapped remarketings, so it is treated as Tier 1 capital, for purposes of regulations applicable to financial institutions; and

issuing ~~issue~~ said forward contract portion.

Reasons for Allowance

The closest prior art that the examiner has been able to locate is “Internal Revenue Service Issues Guidance on Popular Equity-Linked Financial Products” by Shearman. (Hereinafter “Shearman”). Shearman provides Guidance on how equity-linked financial products will be viewed in light of tax laws. Shearman teaches a Note can be given at a set interest rate and then remarketed after a 3 year period. If the remarketing does not draw a new buyer, the Note would return to the issuer and the issuer would release common stock to the holder of the note.

While Shearman is similar to the instant application in many aspects, there are clear patentable distinctions. Initially, Shearman does not teach setting capped and uncapped remarketings in an order to enable the note to remain treated as Tier 1 capital.

Secondly, while Shearman hints at capped and uncapped remarketings, Shearman fails to show the use of the remarketings used in a fashion similar to the applicants. The primary basis for this allowance is the order the remarketings happen and the timing they occur.

The examiner would like to add an additional comment related to a previous rejection that utilizes US PG-Pub 2003/0225656 to Aberman. Aberman teaches Tier 1 capital being used for purposes of regulation; however, Aberman does not teach or allow a connection to be made to Notes which are remarketed with and without a cap.

The following is a formal statement of reasons for allowance:

Art Unit: 3693

Claims 7, 21, and 31 are allowed because the best prior art of record, Shearman, alone or in combination, neither discloses nor fairly suggest the limitations, in a method, apparatus, and associated computer readable medium storing a plurality of processing instructions, executable by the computer to perform the steps of:

executing an initial capped remarketing of a note portion of said mandatory unit by a processor, said initial remarketing initiated prior to a settlement date of a forward contract portion of said mandatory unit, said initial remarketing subject to a reset rate cap;

executing a subsequent capped remarketing if said initial remarketing is unsuccessful;

executing a final remarketing of said note portion of said mandatory unit, if both said initial capped remarketing and said subsequent capped remarketing are unsuccessful, said final remarketing initiated prior to said settlement date and not subject to a reset rate cap;

structuring the note as a combination of capped and uncapped remarketings, so it is treated as Tier 1 capital, for purposes of regulations applicable to financial institutions; and

issuing said forward contract portion.

Claims 8-16 and 22-29 are also allowable for the same reason discussed above, in that they are dependent on allowed Claims 7, 21, and 31. As a final matter any comments considered necessary by Applicant must be submitted no later than the payment of the issue fee and; to avoid processing delays, should preferably accompany the issue fee. Such submission should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES A. VEZERIS whose telephone number is (571)270-1580. The examiner can normally be reached on Monday-alt. Fridays 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on 571-272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James A. Kramer/
Supervisory Patent Examiner, Art Unit 3693

/JAMES A VEZERIS/
Examiner, Art Unit 3693

1/15/2010